

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

RITA LEGER, individually, RAYMOND  
ALLEN, individually, DIYANA  
VALKANOV, individually, CHRISTINE  
CHENH, individually, ANTHONY DICH,  
individually and on behalf of other members of  
the general public similarly situated,

Plaintiff,

vs.

LANDRY'S INC. dba GOLDEN NUGGET,  
and DOES 1 through 25,

Defendants.

Case No. 2:20-cv-02274-RFB-NJK

**ORDER TO  
CONTINUE CERTAIN DEADLINES SET  
FORTH IN THE DISCOVERY PLAN  
AND SCHEDULING ORDER (ECF NO.  
61)  
(SECOND REQUEST)**

Defendant, through its counsel Jackson Lewis P.C., Kirsten Milton, and Plaintiffs, through  
counsel Burke Huber, at the Van Law Firm, pursuant to Local Rule 26-3, submit this Stipulation  
and Order to Continue Certain Deadlines Set Forth in the Discovery Plan and Scheduling Order  
(ECF No. 61).

1           The parties do not submit this Stipulation lightly as they each and collectively understand  
2 that discovery has been ongoing in this case and are aware of the Court's December 21, 2021 Order,  
3 in which the Court granted the parties' request acknowledging that the "bulk of the request . . . is  
4 based on Plaintiffs' counsel's busy case load," but "as a one-time courtesy," the Court would grant  
5 the parties' request. ECF No. 61. The parties are also aware that the Court "is not inclined to grant  
6 further extension requests," *Id.*, but believe that, in this instance, good cause exists to modify the  
7 case schedule as proposed below because otherwise Defendant's defense of the case will be  
8 severely prejudice and, it will otherwise be punished for its willingness to extend Plaintiffs  
9 professional courtesies in light of the personal and professional issues that have arisen during the  
10 course of the litigation. Therefore, in an effort to cooperate and ensure that each party has sufficient  
11 time to complete discovery, the parties submit this Stipulation and seek the Court's indulgence for  
12 an extension of certain deadlines.

13           An extension of relevant deadlines is needed so that Plaintiff may conduct additional  
14 depositions, as well as obtain additional, relevant documents from Defendant related to the  
15 collection of vacation tokens. Moreover, Defendant needs the opportunity to conduct additional  
16 written and oral discovery of the named and opt-in plaintiffs, which it, unfortunately, has been  
17 unable to do over the last two months due to Plaintiffs' counsel's schedule. Specifically, on  
18 February 8, 2022, Defendant's counsel offered the week of February 28, 2022 for the depositions  
19 of Defendant's witnesses, Sherri Vaughan, Former GNLV Vice President of Human Resources,  
20 and Jason Sides, GNLV's Vice President of Casino Operations. At that same time, Defendant's  
21 counsel offered times on February 16, 17, and 21, 2022 for her to conduct a telephone interview of  
22 Plaintiff Leger. On Plaintiffs' counsel's suggestion, he offered to present his client informally for  
23 an interview about her claims and Defendant's counsel took him up on the opportunity.  
24 Unfortunately, Defendant's counsel did not hear back from Plaintiffs' counsel, and, on February  
25 18, 2022, followed up to schedule the above interview and depositions. On February 22, 2022,  
26 Plaintiffs' counsel informed Defendant's counsel that due to the unfortunate passing of one of his  
27 firm's attorneys, it had been "all hands on deck." He stated that he could not go forward with the  
28 depositions on February 28, 2022, but was available on March 2 and 3, 2022. Due to commitments

1 in other matters, including issues related to travel arrangements, the parties scheduled and  
2 conducted the depositions of Ms. Vaughan and Mr. Sides on March 16, 2022. On February 28,  
3 2022, Plaintiffs' counsel also gave Defendant's counsel the opportunity to interview telephonically  
4 Ms. Leger about her claims.

5 On March 17, 2022, Defendant asked to conduct Ms. Leger's deposition on March 29, 2022,  
6 and explained that, based on her interview of Ms. Leger on February 28, she thought the parties  
7 should discuss the claims as alleged and whether Plaintiffs were willing to drop one of the claims.  
8 From Defense counsel's perspective, whether Plaintiffs continued to pursue the particular claim  
9 significantly impacted the scope of discovery – i.e., if Plaintiffs dropped the claim, the scope of  
10 discovery would be significantly limited – and Defendant would likely not need to pursue the same  
11 amount of written or oral discovery, making the litigation of the claims as efficient as possible.  
12 That same day, Defendant's counsel also asked Plaintiffs' counsel to provide her with the complete  
13 list of individuals who opted in to the lawsuit, so that Defendants could issue written discovery and  
14 decide which individuals to depose. The opt-in notice period closed on March 19, 2022. On March  
15 22, 2022, Defendant's counsel asked for the final opt-in list. On March 25, 2022, Plaintiffs provided  
16 Defendant with an incomplete list of the opt-ins, explaining that Plaintiffs were still “going through  
17 the mail from last week.” Since then, Defendant has made repeated requests for the final and  
18 complete opt-in list, but, unfortunately, as of the date of this filing, still does not have the final list.  
19 Without that final list, Defendant is unable to decide from which individuals it will seek to pursue  
20 discovery – e.g., in the parties Amended Joint Discovery Plan and Scheduling Order, ECF No. 51,  
21 the parties agreed that Defendant could “take the depositions of up to 25 individuals who opt in to  
22 the collective action; however, if more than 100 individuals opt in to the collective action,  
23 Defendant shall be entitled to depose 25 of those individuals who opt in.” Plaintiffs' delay in  
24 providing this final list has hindered Defendant's ability to make informed and strategic decisions  
25 about the discovery it needs to pursue.

1           Moreover, with respect to Ms. Leger's deposition, due to a previously scheduled trial,  
2           Plaintiffs' counsel was unavailable on March 29, 2022 and asked for proposed dates in April, but  
3           did not respond to Defendant's counsel's inquiry regarding the scope of the claims. After going  
4           back and forth on dates, on April 1, 2022, Defendant confirmed Ms. Leger's deposition for April  
5           14, 2022 and the deposition of Defendant's witness, Kim McCulley, for April 15, 2022. Because  
6           counsel for Defendant had to book travel arrangements for the depositions, on April 4, 2022, she  
7           asked counsel for Plaintiffs to confirm the dates one last time. On April 8, 2022, Plaintiffs' counsel  
8           informed defense counsel that he had an emergency and needed to reschedule the depositions  
9           scheduled for the following week. That same day, Defense counsel asked for dates of availability  
10          for the next two weeks to reschedule the deposition (except for Mondays, Defendant's counsel  
11          offered anytime the weeks of April 18 and 24, 2022). When Defendant's counsel did not hear back,  
12          on April 11, 2022, Defendant's counsel followed up and asked Plaintiffs' counsel to confirm  
13          availability.

14          Understanding Plaintiffs' counsel was likely dealing with the previously-referenced  
15          emergency and hoping the parties could resolve the issues with having to unnecessarily involve the  
16          Court, Defendant's counsel followed up on April 21, 2022 again asking where the parties stood on  
17          all outstanding issues – i.e., opt-in collective list, scope of claims, Plaintiff Leger's deposition, and  
18          deposition of Mr. McCulley – and when it could expect a response. On April 23, 2022, Plaintiffs'  
19          counsel emailed Defendant's counsel, apologized for his delayed response, explained he was in the  
20          process of changing firms, and asked if the parties could speak the next week. Almost immediately,  
21          Defendant's counsel responded and agreed the parties needed to talk the following week.  
22          Defendant's counsel did not hear from Plaintiffs' counsel the following week, therefore, on May 3,  
23          2022, Defendant's counsel sent Plaintiffs' counsel another email asking to schedule a call. On May  
24          4, 2022, Plaintiffs' counsel called Defendant's counsel and left a voice message. That same day,  
25          Defendant's counsel called Plaintiffs' counsel back and left a voice message. On May 5, 2022,  
26          Defendant's counsel sent Plaintiffs' counsel an email saying that she wanted to speak that  
27          afternoon. The parties spoke on May 5, 2022. Plaintiffs' counsel stated he would confirm the final  
28          opt-in list, stated that Plaintiffs were not willing to drop the claim Defendant had been asking about,

1 and agreed that, at this juncture, the parties would need to ask the Court to modify the current case  
 2 schedule. Recognizing the delays have impeded Defendant's ability to build its defense, and the  
 3 strain amended case schedules put on the Court's case load, on May 6, 2022, the parties agreed to  
 4 seek the Court's approval for the below modified case schedule, attempting to minimize the overall  
 5 changes as much as possible.

#### 6 **AMENDED PROPOSED DISCOVERY SCHEDULE**

##### 7 **I. Discovery Completed to Date and Notice to the Conditionally 8 Certified Collective Members**

9 1. On October 18, 2021, Defendant turned over the list of names and contact  
 10 information of the conditionally certified class members.

11 2. On November 8, 2021, Plaintiffs' counsel reached out to CPT Group for an estimate  
 12 on the cost of sending out notice to the conditionally certified class members. That same day,  
 13 Plaintiffs received a quote on the price for notice.

14 3. On January 18, 2022, CPT sent notice to the conditionally certified class members.

15 4. The notice period closed on March 19, 2022.

16 5. On February 28, 2022, Defendant interviewed Plaintiff Leger about her claims.

17 6. On March 16, 2022, Plaintiffs conducted the depositions of Defense witnesses Ms.  
 18 Vaughan and Mr. Sides.

19 7. The parties have exchanged initial and supplemental disclosures, as well as written  
 20 discovery and responses. Plaintiffs' additional written responses are currently due on May 13,  
 21 2022. Defendant also has agreed to produce additional documents related to vacation toke  
 22 allocations to Plaintiffs.

##### 23 **II. Discovery Left to be Completed and Additional Acknowledgments**

24 1. Named Plaintiffs will provide responses to written discovery requests on May 13,  
 25 2022.

26 2. Defendant will provide documents related to the calculation of vacation toke on or  
 27 on May 10, 2022.  
 28

3. Plaintiffs need to take the deposition of Kim McCulley and potentially other Defense witnesses.

4. Defendant needs to take the depositions of the named Plaintiffs and, as soon as it has the final list of the opt-in collective members, issue written and oral discovery consistent with the parties' previously agreed upon discovery parameters, ECF No. 51.

**Proposed New Dates**

Event	Current Date	Proposed New Date
Discovery Cut-Off	June 7, 2022	Plaintiffs' Deadline: July 7, 2022  Defendant's Deadline: August 22, 2022
Initial Expert Disclosure	April 8, 2022	No change
Rebuttal Expert Disclosure	May 9, 2022	No change
Rule 23 Class Certification Deadline	July 22, 2022	No change
Deadline to Oppose Rule 23 Motion for Class Certification	August 22, 2022	September 22, 2022
Reply Brief to Defendant's Opposition	May 25, 2022	October 24, 2022
Deadline for Dispositive Motions	July 22, 2022	October 21, 2022
Oppositions to Dispositive Motions	August 22, 2022	November 21, 2022
Reply Briefs to Oppositions to Dispositive Motions	September 22, 2022	December 21, 2022
Pre-Trial Order	August 22, 2022	November 16, 2022, or 30 days after resolution of dispositive motions or further Court order

1           **5. Alternative Dispute Resolution:** In compliance with Local Rule 26-1(6)(7),  
2 Plaintiffs certify that they have met and conferred with Defendant about the possibility of using  
3 alternative dispute-resolution processes, including mediation, arbitration, and neutral evaluation.  
4 The parties reserve the right to further confer about the possibility of using alternative dispute  
5 resolution processes at the close of discovery.

6           **6. Alternative Forms of Case Disposition:** In compliance with Local Rule 26-1(b)(8),  
7 the parties certify that they have considered consent to trial by a magistrate judge under 28 U.  
8 S.C. § 636(c) and Fed. R. Civ. P. 73 and the use of the Short Trial Program (General Order 2013-  
9 01).

10           **7. Electronic Evidence.** The parties anticipate presenting evidence in an electronic  
11 format to jurors for the purposes of jury deliberations. The parties propose that any electronic  
12 evidence will be reduced to searchable PDF documents, to the extent practicable, in compliance  
13 with the Court's requirements for the electronic jury display evidence system.

14           **8. Later Appearing Parties:** A copy of this discovery plan and scheduling order shall  
15 be served on any person served after it is entered or, if additional defendants should appear, within  
16 five (5) days of their first appearance. This discovery plan and scheduling order shall apply to such  
17 later appearing party, unless the Court, on motion and for good cause shown, orders otherwise.

18           **9. Extensions or Modifications of the Discovery Plan and Scheduling Order:** In  
19 accordance with Local Rule 26-3, a stipulation or motion for modification or extension of this  
20 discovery plan and scheduling order and any deadline contained herein, must be made not later than  
21 twenty-one (21) days before the subject deadline.

22           **10. Fed. R. Civ. P. 26(a)(3) Disclosures:** The disclosures required by Fed. R. Civ. P.  
23 26(a)(3), and any objections thereto, shall be included in the pretrial order.

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11. This is the second request to extend and amend the discovery order.

Dated this 9th day of May, 2022.

VAN LAW FIRM

JACKSON LEWIS P.C.

/s/ Burke Huber

/s/ Kirsten A. Milton

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**ORDER**

**NO FURTHER EXTENSIONS WILL BE GRANTED.**

IT IS SO ORDERED.

  
\_\_\_\_\_  
Nancy J. Koppe  
United States Magistrate Judge

Dated: May 10, 2022.